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proviso to sub-section (5) of section 8 and holding office immediately before the 5th day of December 1980, shall continue to hold office and function as members of the market committee for such period or periods as the Government may specify under clause (ii) of the proviso to sub-section (5) of section 8 as amended by this Act.

4. *Repeal and saving.*—(1) The Tamil Nadu Agricultural Produce Markets (Amendment) Ordinance, 1980 (Tamil Nadu Ordinance 12 of 1980), is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act as amended by the said Ordinance shall be deemed to have been done or taken under the principal Act as amended by this Act.

இணைப்பு V

[41 ஆம் பக்கத்தில் இனம் 6 (3)-க்கான அடிக்குறிப்பைக் காண்க.]

L.A. Bill No. 4 of 1981.

(As passed by the Assembly.)

A Bill to provide for the levy and collection of a tax on luxuries provided in hotels and lodging houses.

BE it enacted by the Legislature of the State of Tamil Nadu in the Thirty-second Year of the Republic of India as follows :—

1. *Short title and commencement.*—(1) This Act may be called the Tamil Nadu Tax on Luxuries in Hotels and Lodging Houses Act, 1981.

(2) It shall be deemed to have come into force on the 13th October 1980.

2. *Definitions.*—In this Act, unless the context otherwise requires,—

(a) “appellate authority” means an appellate authority appointed under sub-section (2) of section 3;

(b) “assessing authority” means an assessing authority appointed under sub-section (1) of section 3;

(c) “Commissioner of Commercial Taxes” means the Commissioner in charge of commercial taxes;

(d) “concessional rate” in relation to luxury provided in a hotel means a rate lower than the normal rate fixed for such luxury by the hotel or lower than that fixed by the Government or any other authority under any law for the time being in force;

(e) “Government” means the State Government;

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(f) "hotel" means a building or part of a building where residential accommodation with or without board is by way of business provided for a monetary consideration and includes a lodging house ;

(g) "luxury provided in a hotel" means accommodation for residence provided in a hotel, the rate of charges for which (including charges for air-conditioning, television, radio, music, extra beds and the like but excluding charges for food, drink and telephone calls) is twenty rupees or more per person per day;

(h) "proprietor" in relation to a hotel, includes the person who for the time being is in charge of the management of the hotel;

(i) "tax" means the luxury tax levied and collected under this Act.

3. *Authorities*.—(1) The Government may, by notification, appoint such officers as they think fit to be assessing authorities for the purposes of this Act and may assign to them such local limits as the Government may think fit.

(2) The Government may, by notification, appoint such officers as they think fit to be appellate authorities for the purposes of this Act and may assign to them such local limits as the Government may think fit.

4. *Levy and collection of luxury tax*.—(1) Subject to the provisions of this Act, there shall be levied and collected from every person residing in a hotel a tax (to be known as "luxury tax") in respect of any luxury provided in a hotel to him, at the following rates, namely :—

	<i>Rate of tax.</i>
(a) Where the rate of charges for accommodation for residence (including charges for air conditioning, television, radio, music, extra beds and like but excluding charges for food, drink and telephone calls) is twenty rupees or more but is less than fifty rupees per person per day.	Five percentum of such rate.
(b) Where such rate is fifty rupees or more per person per day.	Ten percentum of such rate.

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Provided that where such charges are levied otherwise than on daily basis or per person, then, the charges for determining the liability to tax under this section shall be computed as for a day and per person, based on the period of occupation of the residence for which the charges are made and the number of persons actually occupying or permitted to occupy according to the rules or custom of the hotel.

(2) The tax payable under this section shall be collected by the proprietor and be paid into a Government treasury within the time and in the manner provided by or under this Act.

(3) In computing the amount of tax payable under this section, the amount shall, if it is not a multiple of five paise, be increased to the next higher multiple of five paise.

5. *Mode of collection of tax.*—(1) Where no separate charges for luxury provided in a hotel and for food or drink or telephone calls are specified, but a consolidated payment is required to be made both for luxury provided in a hotel and for food or drink or telephone calls, then, the assessing authority may, from time to time, after giving the proprietor an opportunity of being heard, fix separate rates of charges for such luxury and for food or drink or telephone calls for the purpose of calculating the tax under this Act.

(2) Where, in addition to the charges for luxury provided in a hotel, service charges are levied and appropriated to the proprietor and not paid to the staff, then, such charges shall be deemed to be part of the charges for luxury provided in the hotel.

(3) Where luxury provided in a hotel to any person (not being an employee of the hotel) is not charged at all, or is charged at a concessional rate, then, the tax on such luxury shall be levied and collected as if full charges for such luxury were paid to the proprietor of the hotel.

(4) Where luxury provided in a hotel for a specified number of persons is shared by more than the number specified, then in addition to the tax paid for the luxury provided to such specified number of persons, there shall also be levied and collected separately, the tax in respect of the charges made for the additional number of persons accommodated.

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(5) Where any proprietor fails or neglects to collect the tax payable under this Act, the tax shall be paid by the proprietor as if the tax was collected by the proprietor from the person to whom the luxury was provided and who was accordingly liable to pay the same.

6. *Returns*.—(1) Every proprietor liable to pty tax under this Act shall furnish a monthly return in the prescribed form to the assessing authority within eight days after the expiry of the month to which the return relates.

(2) Every such return shall show the number of rooms or other accommodation, in the hotel, which is intended to be occupied, the number of persons who occupied such rooms or accommodation, the periods of their stay, the dates of their arrival and departure, the amount of charges recovered from them and such other information as may be prescribed.

(3) A proprietor furnishing a return as required by sub-section (1) shall first pay into a Government Treasury, in the manner prescribed, the whole amount of the tax due from him according to such return and enclose a receipt of such payment with the return.

(4) Every return shall be verified in the prescribed manner.

7. *Assessment and collection of tax*.—(1) If the assessing authority is satisfied that the return furnished under sub-section (1) of section 6 is complete and it has no reason to believe that it is incorrect, it shall assess the amount of tax due from the proprietor on the basis of such return.

(2) (a) If the assessing authority is not satisfied that the return furnished under sub-section (1) of section 6 is complete or it has reason to believe that it is incorrect and it considers it necessary to require the presence of the proprietor or the production of further evidence, it shall serve on such proprietor in the prescribed manner a notice requiring him on a date and at a place specified therein either to attend and produce or cause to be produced all evidence on which such proprietor relies in support of his return or to produce such evidence as is specified in the notice.

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(b) On the date specified in the notice, or as soon as may be thereafter, the assessing authority shall, after considering all the evidence which may be produced, assess the amount of tax due from the proprietor.

(c) If the proprietor fails to comply with the terms of the notice issued to him under clause (a), the assessing authority shall assess to the best of its judgment, the amount of tax due from him.

(3) If a proprietor liable to pay tax under this Act fails to furnish a return in respect of any period within the period specified in sub-section (1) of section 6, the assessing authority shall, after giving the proprietor a reasonable opportunity of being heard, assess to the best of its judgment, the amount of tax if any, due from him.

(4) Any assessment made under this section shall be without prejudice to any penalty or prosecution for an offence under this Act.

8. *Imposition of penalty in certain cases.*—Where any proprietor liable to pay tax under this Act—

(a) fails without sufficient cause or neglects to furnish a return as required by sub-section (1) of section 6, or

(b) while furnishing a return under sub-section (1) of section 6 fails, without sufficient cause or neglects, to pay into Government treasury the whole amount of tax due from him according to such return as required by sub-section (3) of section 6, or

(c) fails without sufficient cause, to comply with the terms of notice issued to him under clause (a) of sub-section (2) of section 7, or

(d) conceals the particulars of any transaction or deliberately furnishes inaccurate particulars of any transaction liable to tax, the assessing authority may impose upon such proprietor by way of penalty, in addition to any tax assessed under section 7, a sum not exceeding one and a half times the amount of the tax.

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9. *Payment of tax and penalty.*—(1) (a) The amount of tax—

(i) due where returns have been furnished without full payment therefor;

(ii) assessed for any period under section 7 less any sum already paid by the proprietor in respect of such period;

(b) the amount of penalty, if any, levied under section 8, shall be paid by the proprietor into a Government treasury by such date as may be specified in the notice issued by the assessing authority for this purpose, being a date not later than thirty days from the date of service of notice :

Provided that the assessing authority or the appellate authority in an appeal under section 10 may, in respect of any proprietor and for reasons to be recorded in writing, extend the date of payment, or allow him to pay the tax or penalty (if any) by instalments.

(2) Any tax or penalty which remains unpaid on the date specified in the notice of payment or after the extended date of payment, and any instalment not duly paid, shall be recoverable as an arrear of land revenue.

10. *Appeal.*—(1) Any proprietor aggrieved by the order of assessment made under section 7 or by an order imposing penalty under section 8 may within three months from the date of receipt of the order, make an appeal to the appellate authority.

(2) On receipt of an appeal under sub-section (1), the appellate authority shall, after giving to the appellant an opportunity of being heard, confirm, annul or modify the assessment or penalty.

11. *Revision.*—(1) The Commissioner of Commercial Taxes may *suo motu* or on an application made in that behalf, call for and examine the record of the proceeding of any order made by the assessing authority or, as the case may be, the appellate authority and pass such order thereon as he thinks just and proper.

(2) No application under sub-section (1) shall be entertained if it is not made within a period of four months from the date of the order

(3) No order which adversely affects any person shall be passed under this section, unless such person has been given a reasonable opportunity of being heard by the Commissioner of Commercial Taxes.

(4) Where an appeal lies under section 10 and no appeal is made, no proceedings in revision shall be entertained upon an application.

(5) Where the Commissioner of Commercial Taxes rejects any application for revision under this section, he shall record the reasons for such rejection.

12. *Court-fees on appeal and application for revision.*—Notwithstanding anything contained in the Tamil Nadu Court-fees and Suits Valuation Act, 1955 (Tamil Nadu Act XIV of 1955), an appeal made under section 10 and an application for revision made under section 11 shall bear a court-fee stamp of such value as may be prescribed.

13. *Refund of tax.*—(1) If any proprietor satisfies the assessing authority that on account of any clerical or arithmetical error in calculating the amount of tax, the amount of tax paid by him or recovered from him in respect of any period exceeds the amount with which he is properly chargeable, under this Act for that period, he shall be entitled to a refund of the excess so paid, or recovered.

(2) Where as a result of an order passed under section 10 or 11 the refund of any amount becomes due to a proprietor, the assessing authority shall refund such amount to him.

(3) The refund may be given either by cash payment or by deduction of such excess from the amount of tax due from such proprietor in respect of any other period.

14. *Offences.*—(1) Any person who, being a proprietor liable to pay tax under this Act,—

(a) furnishes or allows or causes to be furnished an incorrect or incomplete return or fails to submit the returns as required by or under the provisions of this Act, or

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(b) fraudulently evades or allows to be evaded the payment of any tax due from him, or

(c) fraudulently makes or causes or allows to be made any wrong entry in, or fraudulently omits or causes or allows to be omitted any entry from, any statement furnished or any accounts or register, or

(d) knowingly collects from any person any amount by way of tax in excess of the amount of tax payable by him under the provisions of this Act, or

(e) wilfully acts in contravention of any of the provisions of this Act or the rules made thereunder or any lawful orders passed in accordance therewith

shall, on conviction be punished with imprisonment for a term which may extend to six months or with fine not exceeding one thousand rupees or with both.

(2) No court shall take cognizance of any offence punishable under sub-section (1) except upon a report in writing of the facts constituting such offence made by the assessing authority.

15. *Offences by companies.*—(1) Where an offence under this Act has been committed by a company every person who, at the time when the offence was committed, was in-charge of, and was responsible to the company, for the conduct of the business of the company, as well as the company shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly :

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, provided in this Act if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section—

(a) “ company ” means a body corporate, and includes a firm or other association of individuals; and

(b) “ director ” in relation to a firm means a partner in the firm.

16. Compounding of offences.—(1) Subject to such conditions as may be prescribed, the assessing authority may, either before or after the institution of proceedings for an offence under this Act, permit any person who has committed or is suspected to have committed the offence to compound the offence on payment of such sum, not exceeding double the amount of tax to which the offence relates as the assessing authority may determine.

(2) On payment of such sum as may be determined by the assessing authority under sub-section (1), no further proceedings shall be taken against the person in respect of the same offence.

17. Powers to enforce attendance, etc.—All authorities under this Act, shall for the purpose of this Act, have the same powers as are vested in a court under the Code of Civil Procedure, 1908 (Central Act V of 1908) while trying a suit, in respect of enforcing the attendance of and examining any person on oath or affirmation or for compelling the production of any document.

18. Powers of inspection of accounts and documents and search of hotels.—(1) The assessing authority may, subject to such conditions as may be prescribed, require any proprietor to produce before it the working records of accounts, registers or other documents or to furnish any information relating to the business of the hotel as may be necessary for the purposes of this Act.

(2) All working records of accounts, registers or other documents relating to the business of any hotel shall at all reasonable times be open to inspection by the assessing authority and the assessing authority may take or cause to be taken such copies or extracts of such records as may be necessary for the purpose of testing the accuracy of the charges for such luxury or for informing itself as to the particulars regarding which information is required for the purpose of this Act or any rules made thereunder as would appear to it necessary.

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(3) If the assessing authority has reason to believe that any proprietor has evaded or is attempting to evade the payment of tax due from him, it may for reasons to be recorded in writing, seize such records of accounts, registers or other documents of the proprietor as may be necessary and shall grant a receipt for the same and shall retain the same so long only as may be necessary in connection with any proceeding under this Act or for a prosecution.

(4) For the purposes of this Act, the assessing authority or any other person authorised by it in this behalf, may enter and search any hotel or any place of business of the proprietor or any other place where the assessing authority has reason to believe that the proprietor keeps, or is for the time being keeping, any records of accounts, registers or other documents of his business in relation to the hotel.

19. *Certain provisions of Limitation Act to apply to appeal and revision applications*.—The provisions of sections 4, 5 and 12 of the Limitation Act, 1961 (Central Act 36 of 1963) shall as far as may be, apply in computing the period for making an appeal under section 10 or an application for revision under section 11.

20. *Bar of proceedings*.—(1) No suit shall lie in any Civil Court to set aside or modify an assessment made or order passed under this Act.

(2) No suit, prosecution or other legal proceeding shall lie against the Government for anything which is in good faith done or intended to be done in pursuance of this Act or any rules made thereunder.

21. *Power to make rules*.—(1) The Government may make rules for securing the payment of the tax and generally for carrying into effect the provisions of this Act.

(2) (a) All rules made under this Act shall be published in the *Tamil Nadu Government Gazette* and, unless they are expressed to come into force on a particular day, shall come into force on the day on which they are so published.

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(b) All notifications issued under this Act shall, unless they are expressed to come into force on a particular day, come into force on the day on which they are published.

(3) Every rule made or notification issued under this Act shall, as soon as possible, after it is made or issued, be placed on the table of both Houses of the Legislature, and if, before the expiry of the session in which it is so placed or the next session, both Houses agree in making any modification in any such rule or notification or both Houses agree that the rule or notification should not be made or issued, the rule or notification shall thereafter have effect only in such modified form or be of no effect, as the case may be, so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or notification.

22. *Power to remove difficulties.*—(1) If any difficulty arises in giving effect to the provisions of this Act, the Government may, by order, do anything not inconsistent with such provisions which appear to it to be necessary or expedient for the purpose of removing the difficulty.

(2) No order under sub-section (1) shall be made after the expiration of a period of two years from the date of publication of this Act in the *Tamil Nadu Government Gazette*.

23. *Power to alter the rates of tax.*—(1) The Government may, by notification, alter the rates of tax specified in sub-section (1) of section 4 and where a notification has been issued, there shall, unless the notification is in the meantime rescinded, be introduced in the Legislature, as soon as may be but in any case during the next session of the Legislature following the date of the issue of the notification, a Bill on behalf of the Government, to give effect to the alteration of tax specified in the notification, and the notification shall cease to have effect when such Bill becomes law, whether with or without modifications, but without prejudice to the validity of anything previously done thereunder :

Provided that if the notification is issued when the Legislature is in session, such a Bill shall be introduced in the Legislature during that session :

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Provided further that where for any reason a Bill as aforesaid does not become law within six months from the date of its introduction in the Legislature, the notification shall cease to have effect on the expiration of the said period of six months.

(2) Any reference to the rate of tax made under this Act shall be considered as relating to the rate of tax as for the time being amended in exercise of the powers conferred by subsection (1).

24. *Repeal and saving.*—(1) The Tamil Nadu Tax on Luxuries in Hotels and Lodging Houses Ordinance, 1980 (Tamil Nadu Ordinance 7 of 1980) is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken (including any penalty imposed) under the said Ordinance, shall be deemed to have been done or taken under this Act.

I certify that this is a Money Bill.
Fort St. George, Madras
26th February 1981.

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L.A. Bill No. 1 of 1981.

(As passed by the Assembly.)

A Bill further to amend the Sales tax in force in the State of Tamil Nadu.

BE it enacted by the Legislature of the State of Tamil Nadu in the Thirty-second Year of the Republic of India as follows :—

1. *Short title and commencement.*—(1) This Act may be called the Tamil Nadu Sales Tax Laws (Amendment and Repeal) Act, 1981.

(2) (i) Sub-clause (a) of clause (1) of section 2 shall be deemed to have come into force on the 29th October 1980.

(ii) Sub-clause (b) of clause (1) of section 2 shall be deemed to have come into force on the 1st November 1980.